

Message Text

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ACTION EUR-10

INFO OCT-01 ISO-00 EB-03 CIAE-00 PM-03 INR-10 L-02 ACDA-10

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CDRUSAMC ALEXANDRIA VA

CDRUSAMICOM REDSTONE ARS AL

CDRUSAADC FT BLISS TX

CDR WHITE SANDS MSL RANGE NMEX

USCINCEUR VAIHINGEN

CINCUSAREUR HEIDELBERG

CDR 32D AIR DEF CMD CAISERSLAUTERN

CHUSNHLO PARIS

USNMR SHAPE

CHMAAG ATHENS

CHMAAG BONN

CHMAAG BRUSSELS

CHMAAG COPENHAGEN

CHMAAG ROME

CHMAAG PARIS

CHMAAG THE HAGUE

C O N F I D E N T I A L SECTION 1 OF 2 USNATO 5572

E. O. 111652: GDS, 12-31-80

TAGS: MARR, NATO

SUBJECT: NATO-HAWK BOARD OF DIRECTORS (BOD) MEETING, 1-3

OCT 74 (KLYSTRON PROCUREMENT)

SECDEF FOR OASD(I&L)-MR D. CUFFE; ODDR&E; OASD(ISA);
AND DSAA. DA FOR OASA(I&L); DCSLOG FOR MSG-SBI; AND ACSI.
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USAMC FOR AMCGC. USAMICOM FOR AMCPM-HA. USCINCEUR FOR MAD DNA
J-4. USAREUR FOR AEGD-MR-MM AND USAMICOM FLD
OFC ((AMCPM-HAI-EUR-MAJ LYNE).

HTFS: A. USNATO 5522.
B. USNATO 4435.
C. HMO/10.16.02/3642/74, 1 OCT 74.
D. STATE 213796.
E. BAI(AR-104/74)2584.

BEGIN SUMMARY. IN COURSE OF NATO-HAWK BOARD OF DIRECTORS (BOD) MEETING OF 1-3 OCT 74, BOARD OVERRODE STRONG US OBJECTIONS AND OVTED TO AWARD BOTH KLYSTRON PROCUREMENT CONTRACTS TO THOMSON C.S. F. (FRENCH) INSTEAD OF TO VARIAN ASSOCIATES (US). US MEMBER SUBMITTED IN WRITING, FOR THE RECORD, STATEMENTS OF OBJECTIONS TO BOTH AWARDS. BOARD OF AUDITORS REPORT CONCLUDED THAT NAMSA APPLIED EXISTING RULES CORRECTLY BUT THERE IS ROOM FOR IMPROVEMENT IN THE FUTURE. END SUMMARY.

1. AT NATO-HAWK BOD MEETING OF 1-3 OCT 74 (REF A) FRENCE (GEN CAUCHIE) CALLED FOR A RESTRICTED SESSION DURING WHICH FRANCE CHALLENGED THE US ON SEVERAL COUNTS SURROUNDING THE FOCAL ISSUE OF THE POWER KLYSTRON PROCUREMENT. THE RESTRICTED SESSION LASTED APPROXIMATELY FOUR HOURS AND INCLUDED A SHARP EXCHANGE OF US AND FRENCH VIEWS ON THE POWER KLYSTRON PROCUREMENT AND SOME GENERAL STATEMENTS OF FRENCH PHILOSOPHY ON INDUSTRIAL RETURN TO PARTICIPATING NATIONS. GEN CAUCHIE LED OFF WITH SEVERAL ISSUES WHICH HE HAD ANNOUNCED IN ADVANCE BY MESSAGE TO THE BOD AND ADDED OTHERS, GENERALLY IN THE CATEGORY OF OBFUSCATION TACTICS, AS HE WARMED TO HIS TASK. HE MADE THE FOLLOWING POINTS:

A. FRENCH CONCERN REGARDING MISSION USE OF UNCLASSIFIED (PROPERLY SO) MESSAGE TO THE BOD (USNATO 4434; SUMMARIZED IN REF B) WHICH FOCUSED ATTENTION ON THE VARIAN PROTEST TO NAMSA. THE US IGNORED THESE REMARKS.

B. ALLEGATION OF IMPROPER MARKETING INTELLIGENCE METHODS EMPLOYED BY VARIAN. COL LUNCH RESPONDED THAT, AS GEN CAUCHIE WELL KNEW, BOTH US AND EUROPEAN FIRMS USED MARKETING INTELLIGENCE. COL LYNCH THEN QUOTED DIRECTLY FROM THE VARIAN COMPLAINT TO THE CONFIDENTIAL

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DOC A PARAGRAPH TO EMPHASIZE THE POINT. VARIAN HAD NOTED THAT THOMSON C.S.F. KNEW THE APPROXIMATE AMOUNT OF THE VARIAN BID AS EARLY AS JUNE 11, 1974, OR A WEEK BEFORE THE NATO-HAWK BOD MEETING OF 18-21 JUNE 74. AT THAT MEETING THE BOARD VOTED TO AWARD THE POWER KLYSTRON CONTRACT TO THOMSON C.S.F. RATHER THAN TO VARIAN.

C. ALLEGATION THAT US FIRM, VARIAN WAS GUILTY OF QUOTE DUMPING UNQUOTE IN EUROPE IN CONTRAVICTION OF US ANTI-DUMPING LEGISLATION. GEN CAUCHIE NOTED THAT THE US QUOTED AN FMS BASE PRICE OF A POWER KLYSTRON AT \$4,073 WHICH WAS 50 PERCENT HIGHER THEN THE VARIAN OFFERED PRICE TO NAMSA OF 2,705. COL LYNCH RESPONDED THAT FOR AT LEAST TWO REASONS FRANCE SHOULD NOT EXPECT THE FMS AND VARIAN PRICES TO BE SIMILAR. IN THE FIRST INSTANCE

THE FMS PRICE COULD REFLECT COST DATA DERIVED SOME YEARS
EARLIER ON THE KLYSTRON PRODUCTION LEARNING CURVE. ALSO US
LEGISLATION ENACTED CIRCA 1968 PRECLUDES US FMS OFFERS FROM
COMPETING IN PRICE WITH US INDUSTRIAL SUPPLIERS.

2. IN THE SECOND HALF OF THE RESTRICTED SESSION GEN CAUCHIE MADE
A STRONG PITCH FOR A BUY EUROPEAN PROTECTION ARRANGEMENT
FOR THE NATO-HAWK PRODUCTION AND LOGISTICS ORGANIZATION (NHPLO). HE
NOTED THAT THE US WOULD BE RECEIVING APPROXIMATELY 70 PERCENT
DOLLAR FLOW TO THE US FROM THE 700 MILLION DOLLAR HELIP ((HAWK
EUROPEAN LIMITED IMPROVEMENT PROGRAM), AND THAT APPARENTLY THIS
WAS NOT ENOUGH FOR THE US WHICH WAS NOW ACTIVELY PURSUING
OTHER HAWK-RELATED CONTRACTS IN EUROPE. FRANCE DEMANDS ESTABLISH-
MENT OF COMPENSATION RULES WITH THE US. FOR FRANCE THE PERcen-
TAGES COULD BE MODELLED ADVANTAGEOUSLY ON THOSE THAT THE US IS
PROMISING TO COUNTRIES IN THE F-104 REPLACEMENT PROGRAM COMPE-
TITION IN WHICH THE US AND THE FRENCH AERONAUTICAL INDUSTRIES ARE
THE PRIME COMPETITORS. THE BOD HAS EXCLUDED BELGIAN INDUSTRY
FROM PARTICIPATION IN HELIP ONLY BECAUSE BELGIUM IS NOT IN
HELIP. FRANCE CANNOT UNDERSTAND HOW, IN SPITE OF ABSENCE OF US
FINANCIAL CONTRIBUTION TO HELIP AND IN RECOGNITION OF THE LARGE
CONTRACTS ALREADY LET TO THE US, AMERICAN INDUSTRY COULD STILL
HAVE LEGAL RIGHTS TO OBTAIN NEW CONTRACTS. GEN CAUCHIE CONCLUDED
COMMENTS WITH REFERENCE TO THE US BUY AMERICAN ACT AND
DEMANDED TO KNOW DETAILS CONCERNING APPLICATION OF ACT
AND SPECIFIC PERCENTAGES STIPULATED. COL LYNCH STATED THAT HE
WOULD SEEK INSTRUCTION ON QUESTIONS POSED BY FRANCE CONCERNING
BUY AMERICAN ACT AND US DUMPING LEGISLATION THAT HE WAS UNABLE
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TO ANSWER.

3. FOLLOWING RESTRICTED SESSION AND A LUNCH BREAK, THE BOD
RECONVENED IN OPEN SESSION. THE OUTGOING CHAIRMAN (GEN DIETERS,
NETHERLANDS) PASSED THE CHAIR TO COL HOFFMAN, FRANCE. THEN THE
BOD RESUMED DISCUSSION RELATED TO KLYSTRON PROCUREMENTS.

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ACTION EUR-10

INFO OCT-01 ISO-00 EB-03 CIAE-00 PM-03 INR-10 L-02 ACDA-10

NSAE-00 PA-01 RSC-01 PRS-01 SP-02 USIA-04 TRSE-00

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CDRUSAMC ALEXANDRIA VA
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CINCUSAREUR HEIDELBERG
CDR 32D AIR DEF CMD CAISERSLAUTERN
CHUSNHLO PARIS
USNMR SHAPE
CHMAAG ATHENS
CHMAAG BONN
CHMAAG BRUSSELS
CHMAAG COPENHAGEN
CHMAAG ROME
CHMAAG PARIS
CHMAAG THE HAGUE

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A. ITEM 3.5. IN THE CASE OF THE PRCUREMENT OF 845 REFLEX KLYSTRONS, BOD NOTED, ON THE BASIS OF NEW INFORMATION PROVIDED THAT DAY TO THEBOARD (REF C), THAT THERE WAS A DIFFERENCE IN THE PRODUCT GUARANTEES OFFERED BY THOMSON AND VARIAN. IN SPITE OF THE NHMO RECOMMENDATION (REF C) TO REQUEST NAMSA PROCUREMENT DIVISION TOCONTACT BOTH FIRMS AND OBTAIN EQUAL GUARANTEE PROVISIONS FROM BOTH, FRANCE ASERETED THAT THE CONFIDENTIAL

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BOD SHOULD DECLARE THE VARIAN BID NONRESPONSIVE AND AWARD THE CONTRACT TO THOMSON. THE US OBJECTED STRONGLY BUT TO NO AVAIL. DESPITE US OBJECTION THE BOARD VOTED TO AWARD THE CONTRACT TO THOMSON AS THE ONLY FIRM TO HAVE STAISIFED THE REQUIREMENTS OF THE RFQ. (REQUEST FOR QUOTATION).

B. ITEM 3.6. THE BOD THEN CONSIDERED AND ULTIMATELY REJECTED US PROTEST AGAINST THE EARLIER BOD AWARD TO THOMSON OF A CONTRACT FOR 400 POWER KLYSTRONS. FRANCE LINKED ACTION ON THIS CONTRACT TO ANOTHER PENDING CONTRACT AWARD TO AEG-TELEFUNKEN (FRG) FOR IMPROVED PLATOON COMMAND POST IPCP EQUIPMENT. FRANCE EARLIER HAD BLOCKED SIGNATURE OF THE IPCP CONTRACT WITH THE RESULT THAT THERE HAS ALREADY BEEN SOME DISRUPTION IN THE FOLOW OF HELIP CONTRACTUAL ACTIONS AND RESULTING ADVERSE EFFECTS ON RAYTHEON AS WELL AS TELEFUNKEN. THIS FRENCH COUNTERMOVE CONSTUTED AN EFFECTIVE HAMMERLOCK ON THE BOARD. THE FRG MEMBER SHARPLY CRITICIZED THE FRENCH ACTION ON THE IPCP AS DEPLORABLE, BUT FRANCE WOULD NOT BUDGE UNTIL THE BOD CLEARED UP THE KLYSTRON PROTEST. IN A FINAL ATTEMPT TO RALLY SUPPORT AND ROUSE SOME INTEREST IN COST SAVINGS AS WELL AS FAIR PLAY, US MEMBER FELL

BACK TO COMPROMISE POSITION (REF D) OF A 50/50 PROCUREMENT SPLIT. THE STRONG FRENCH POSITION PREVAILED, HOWEVER, AND THE BOD VOTED TO CONFIRM ITS JUNE DECISION AND LEAVE THE UNMODIFIED AWARD WITH THOMSON.

4. FOLLOWING THE BOD DECISIONS AGAINST US INTERESTS IN BOTH PROCUREMENTS, US BOARD MEMBER CONSULTED WITH MISSION AUTHORITIES AND THEN INFORMED THE BOD WITH GEN CAUCHIE PRESENT THAT THE US WOULD NOT RESPOND TO FRENCH REQUEST FOR INFORMATION ON EITHER DUMPING OR BUY-AMERICAN LEGISLATION. US MEMBER ALSO REITERATED TO THE BOD HIS OBJECTIONS TO BOTH BOARD DECISIONS AND SUBMITTED THE TEXT OF THE US OBJECTIONS (AND ACCOMPANYING OBSERVATIONS) IN WRITING FOR THE SUMMARY RECORD. KEY POINTS OF THESE STATEMENTS FOLLOW:

A. ITEM 3.5. PROCUREMENT OF 845 REFLEX ELYSTRONS.

(1) THE US, HAVING PRESUMED THAT THE MATTER IS NO LONGER A PENDING PROCUREMENT, HAS ALREADY STARTED (3 OCT) AN INVESTIGATION OF THE VARIAN BID PROBLEM.

(2) VARIAN RESPONSE INDICATED FIRM INTENDED TO
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BE FULLY RESPONSIVE TO THE RFQ BUT HAD BEEN SOMEWHAT PUZZLED BY THE LANGUAGE PERTAINING TO TUBE LIFE GUARANTEES.

(3) NAMSA HAD ACCEPTED THE VARIAN BID AS VALID. BOARD DETERMINATION SIX WEEKS LATER THAT THE BID IS NONRESPONSIVE APPEARS TO BE CAPRICIOUS AND POSSIBLY IMPRUDENT.

(4) US INVESTIGATION WILL CONTINUE AND IF CIRCUMSTANCES MERIT, THE US MAY INCLUDE A COMPLAINT ON THIS AWARD IN AN OVERALL PROTEST ABOUT BOTH KLYSTRON PROCUREMENTS TO THE NATO SECRETARY GENERAL.

B. ITEM 3.6. PROCUREMENT OF 400 POWER KLYSTRONS.

DESPITE THE US REQUEST FOR AN OBJECTIVE EXAMINATION OF THE VARIAN PROTEST AND ALSO SERIOUS CONSIDERATION OF THE LOGICAL COMPROMISE OF A PROCUREMENT SPLIT TO BOTH FIRMS, THE BOARD HAD DECIDED NOT TO CORRECT THE INEQUITY. AFTER FURTHER CAREFUL REVIEW THE US MAY DECIDE TO ASK THE NATO SEC GEN TO PLACE THE MATTER BEFORE THE NAC AS A MATTER NOT IN US OR NATO BEST INTERESTS. THE USM MEMBER ALSO REMINDED THE BOARD THAT IT HAD MADE ITS DECISION AGAINST THE REQUEST OF THE ACTING SEC GEN TO POSTPONE FINAL ACTION PENDING CLARIFICATION OF THE MATTER TO THE SATISFACTION OF THE SEC GEN.

5. THE INTERNATIONAL BOARD OF AUDITORS HAS CONCLUDED ITS INVESTIGATION OF THE PROCUREMENT OF THE 400 POWER KLYSTRONS (REF E). THE REPORT CONCLUDED THAT BOTH NHMO (NATO-HAWK MANAGEMENT OFFICE) AND NAMSA APPLIED EXISTING RULES CORRECTLY IN THIS CASE. THE

AUDITORS, HOWEVER, CRITICIZED THE PRACTICE OF REOPENING NEGOTIATIONS WITH ONLY ONE QUALIFIED BIDDER (THOMSON) TO OBTAIN A LOWER PRICE. THE REPORT ALSO STATED THAT WHEN THERE IS UNCERTAINTY ABOUT A PROPOSAL (OR ANY PART OF IT) NAMSA SHOULD REQUEST CLARIFICATION OF THE BIDDER. FINALLY, THE AUDITORS POINT OUT THAT THE VARIAN PROTEST WOULD NEVER HAVE OCCURRED IF NHMO/NAMSA HAD APPLIED QUOTE MUTATIS MUTANDIS UNQUOTE THE RULES REGARDING INTERNATIONAL COMPETITIVE BIDDING FOR INFRASTRUCTURE WORKS.

COMMENT: THE BOD HAS NOT YET SEEN THE REPORT BUT WILL CONCLUDE UPON REVIEWING THE REPORT THAT THERE IS NO REQUIREMENT FOR FURTHER DISCUSSION OF THE POWER KLYSTRON PROBLEM. THE REPORT CONFIDENTIAL

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DOES NOT ADDRESS THE SECOND PROCUREMENT OF REFLEX KLYSTRONS.

END COMMENT.

6. USNATO COMMENT: THE ONLY REDEEMING FEATURE OF THIS SORRY EPISODE IS THE STRONGPROBABILITY OF BETTER PROCUREMENT PRACTICES IN THE FUTURE. A NATO-HAWK WORKING GROUP IS HARD AT WORK ON THIS SUBJECT NOW. THE BOD PLANS TO REVIEW PROCUREMENT AND PRICE COMPARISON MATTERS AT ITS DECEMBER MEETING. MISSION ANTICIPATES THAT THE BOD WILL AGREE TO ESTABLISH A SINGLE PERCENTAGE FOR US/EUROPEAN HAWK PARTICIPANT COMPARISON RATHER THAN A RANGE (TEN TO FIFTEEN PERCENT). MISSION WILL SEEK TO BROADEN THE LANGUAGE OF THE IMPLEMENTING INSTRUCTIONS TO AVOID ISOLATIONOF THE US IN THE BUSINESS OF FUTURE PRICE COMPARISON. END COMMENT.

7. MISSION WILL CONDUCT FINAL AFTER-ACTION REVIEW OF THE KLYSTRON PROCUREMENTS AFTER WE HAVE ALL FACTS ON THE VARIAN BID PROBLEMS WITH THE 845 REFLEX KLYSTRONS.

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PROCUREMENT)

USCINCEUR VAIHINGEN
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CHMAAG BONN
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CHMAAG COPENHAGEN
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